

Senate Study Bill 1119 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to certificates of insurance, including
2 penalties and effective date and applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 515.115 Certificates of insurance
2 — penalty.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "*Certificate of insurance*" means a document or
6 instrument, regardless of how the document or instrument is
7 titled or described, that is prepared or issued by an insurer
8 or insurance producer as evidence of property and casualty
9 insurance coverage. "*Certificate of insurance*" does not include
10 a policy of insurance, insurance binder, policy endorsement, or
11 automobile insurance identification or information card.

12 b. "*Commercial real estate transaction*" means a non-recourse
13 commercial lending transaction in which the underlying property
14 serves as the primary collateral securing the borrower's
15 repayment of the loan and the borrower or any of the borrower's
16 members, partners, or shareholders, or any person related
17 to the borrower or the borrower's members, partners, or
18 shareholders, does not bear the economic risk of loss in the
19 event of a payment default under the terms of the commercial
20 lending transaction.

21 c. "*Insurance producer*" means a person required to be
22 licensed pursuant to chapter 522B to sell, solicit, or
23 negotiate property and casualty insurance.

24 d. "*Insurer*" means a property and casualty insurance company
25 regulated under this chapter.

26 e. "*Person*" means the same as defined in section 4.1.

27 2. a. The commissioner of insurance shall prohibit the use
28 of a certificate of insurance form if the form is either of the
29 following:

30 (1) Unfair, misleading, or deceptive, or violates public
31 policy.

32 (2) Violates any law, including any rule adopted by the
33 commissioner of insurance pursuant to chapter 17A.

34 b. A certificate of insurance is not a policy of insurance
35 and does not affirmatively or negatively amend, extend,

1 or alter the coverage afforded by the policy to which the
2 certificate of insurance makes reference. A certificate of
3 insurance shall not confer on any person new or additional
4 rights beyond what the referenced policy of insurance expressly
5 provides.

6 *c.* Notwithstanding any provision of this chapter to the
7 contrary, or any language on a certificate of insurance
8 that states that the form is for "information only", a
9 binder delivered together with a certificate of insurance in
10 connection with a commercial real estate transaction shall
11 be valid and may be relied upon by the borrower or by the
12 borrower's lender as evidence of insurance, including in a
13 private civil action or an administrative proceeding, until
14 the delivery of the insurance policy to the borrower or
15 the cancellation of the binder pursuant to section 515.125,
16 515.126, or 515.127.

17 3. *a.* A person shall not do any of the following:

18 (1) Prepare, issue, request, or require the issuance of a
19 certificate of insurance that contains any false or misleading
20 information concerning the policy of insurance to which the
21 certificate of insurance makes reference.

22 (2) Prepare, issue, request, or require the issuance of
23 a certificate of insurance that purports to affirmatively or
24 negatively amend, extend, or alter the coverage provided by the
25 policy of insurance to which the certificate of insurance makes
26 reference.

27 *b.* A certificate of insurance shall not warrant that the
28 policy of insurance referenced in the certificate of insurance
29 complies with the insurance or indemnification requirements
30 of a contract and the inclusion of a contract number or
31 description within a certificate of insurance shall not be
32 interpreted as warranting compliance with such requirements.

33 4. A person is entitled to notice of cancellation,
34 nonrenewal, or material change concerning a policy of insurance
35 or to any similar notice concerning a policy of insurance

1 only if the person has such rights to notice under the terms
2 of the policy of insurance or any endorsement to the policy
3 of insurance. The terms and conditions of a person's right
4 to notice are governed by the policy of insurance or the
5 endorsement and shall not be altered by a certificate of
6 insurance.

7 5. *a.* The provisions of this section are applicable to all
8 certificates of insurance issued in connection with property,
9 operations, or risks located in this state, regardless of
10 where the policyholder, insurer, insurance producer, or person
11 requesting or requiring the issuance of a certificate of
12 insurance is located.

13 *b.* A certificate of insurance or any other document or
14 correspondence prepared, issued, requested, or required in
15 violation of this section is null and void.

16 6. The commissioner of insurance may do all of the
17 following:

18 *a.* Examine and investigate the activities of any person that
19 the commissioner reasonably believes has been or is engaged in
20 an act or practice prohibited under this section.

21 *b.* Enforce the provisions of this section, including the
22 authority to issue orders to cease and desist, and to impose a
23 penalty in an amount of five hundred dollars per violation to
24 be collected in the name of the state for deposit as provided
25 in section 505.7.

26 *c.* Adopt rules pursuant to chapter 17A to administer this
27 section.

28 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
29 immediate importance, takes effect upon enactment.

30 Sec. 3. APPLICABILITY. This Act applies to certificates of
31 insurance prepared, issued, requested, or required beginning
32 ninety days after the effective date of this Act.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill relates to certificates of insurance and includes
2 penalties and effective date and applicability provisions.

3 The bill provides that a "certificate of insurance" is a
4 document or instrument, regardless of how it is described, that
5 is prepared or issued by an insurer or insurance producer as
6 evidence of property and casualty insurance. The commissioner
7 of insurance is directed to prohibit the use of a certificate
8 of insurance that is unfair, misleading, or deceptive, or that
9 violates any law or a rule adopted by the commissioner.

10 A certificate of insurance is not a policy of insurance and
11 cannot affirmatively or negatively amend, extend, or alter
12 coverage or confer additional rights to be provided by an
13 insurance policy.

14 The bill provides that notwithstanding any other provision
15 of Code chapter 515 to the contrary, or any language on
16 a certificate of insurance that states the form is for
17 "information only", a binder delivered together with a
18 certificate of insurance in connection with a commercial real
19 estate transaction shall be valid and may be relied upon by the
20 borrower or by the borrower's lender as evidence of insurance,
21 including in a private civil action or an administrative
22 proceeding, until the delivery of the insurance policy to
23 the borrower or the cancellation of the binder pursuant to
24 the notice requirements contained in Code sections 515.125
25 through 515.127. The bill defines a "commercial real estate
26 transaction" as a non-recourse commercial lending transaction
27 in which the underlying property serves as the primary
28 collateral securing the borrower's repayment of the loan and
29 the borrower or any of the borrower's members, partners, or
30 shareholders or any person related to any of those persons,
31 does not bear the economic risk of loss in the event of a
32 payment default under the terms of the commercial lending
33 transaction.

34 The bill prohibits a person from preparing, issuing,
35 requesting, or requiring the issuance of a certificate of

1 insurance that contains false or misleading information
2 about the policy of insurance or purports to affirmatively or
3 negatively amend, extend, or alter the policy's coverage. A
4 certificate of insurance shall not warrant that the policy
5 of insurance referenced in the certificate complies with the
6 insurance or indemnification requirements of a contract and the
7 inclusion of a contract number or description in a certificate
8 of insurance shall not be interpreted as warranting such
9 compliance.

10 A person is entitled to notice of cancellation, nonrenewal,
11 or material changes in an insurance policy or any other similar
12 notice concerning the policy only if the person has such rights
13 under the terms of the policy or the policy endorsement. These
14 rights cannot be altered by a certificate of insurance.

15 The provisions of the bill are applicable to all
16 certificates of insurance issued in connection with property,
17 operations, or risks located in this state, regardless of
18 where the policyholder, insurer, insurance producer, or person
19 requesting or requiring the issuance of a certificate of
20 insurance is located. A certificate of insurance or any other
21 document or correspondence prepared, issued, requested, or
22 required in violation of the bill's provisions is null and
23 void.

24 The commissioner of insurance may examine and investigate
25 the activities of any person the commissioner reasonably
26 believes has been or is engaged in an act or practice
27 prohibited under the bill; enforce the provisions of the bill
28 including issuance of cease and desist orders and imposition of
29 a penalty of \$500 per violation; and adopt rules pursuant to
30 Code chapter 17A to administer the bill.

31 The bill takes effect upon enactment and is applicable
32 to certificates of insurance prepared, issued, requested, or
33 required beginning 90 days after the effective date of the
34 bill.